

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

MARK BRADFORD BENSON,

Plaintiff,

v.

Case No: 8:21-cv-2060-CEH-AAS

HERNANDO COUNTY SCHOOL
DISTRICT BOARD, JOHN
STRATTON, DENNIS ALFONSO,
LINDA K. PRESCOTT, SUSAN
DUVAL, KAY HATCH, GUS
GUADAGNINO, RAYMOND
PINDER and B. CROFT,

Defendants.

ORDER

This matter is before the Court upon periodic review. Because Plaintiff has failed to timely file an Amended Complaint and submit a new motion to proceed *in forma pauperis* or alternatively pay the filing fee, despite being given the opportunity to do so, this action is due to be dismissed without prejudice.

DISCUSSION

A district court may dismiss a plaintiff's claims pursuant to Rule 41(b) or the court's inherent authority to manage its docket. *Betty K Agencies, Ltd. v. M/V MONADA*, 432 F.3d 1333, 1337 (11th Cir. 2005). Under Rule 41(b), "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss this action or any claim against it." Fed. R. Civ. P. 41(b). The Eleventh

Circuit has recognized that a district court may dismiss an action *sua sponte* for the plaintiff's failure to prosecute his case or obey a court order under Rule 41(b). *Betty K Agencies, Ltd.*, 432 F.3d at 1337.

Plaintiff, Mark Benson, proceeding *pro se*, initiated this action on August 26, 2021 with the filing of a "Complaint and Motion for Emergency Injunction."¹ Doc. 1. In conjunction with the filing of his Complaint, Plaintiff sought to proceed without prepaying the filing fees. Doc. 2. Plaintiff's Complaint names Hernando County School District, John Stratton, Dennis Alfonso, and Linda Prescott as Defendants and purports to assert claims under the First, Fourth, Ninth, and Tenth Amendments to the United States Constitution. Specifically, Plaintiff challenges the mask mandates and quarantines imposed on the school children of Hernando County for the 2020-2021 school year. He also alleges he was forced to leave a school board meeting. He seeks an injunction to prevent the Hernando County School Board from re-imposing mask mandates at a school board meeting that was scheduled for August 31, 2021.

On September 13, 2021, the Magistrate Judge entered an order taking Plaintiff's motion to proceed *in forma pauperis* under advisement because his financial affidavit failed to support his claim of indigency. Doc. 6. Additionally, the Magistrate Judge analyzed the complaint under 28 U.S.C. § 1915(e)(2)(B) and determined Plaintiff's Complaint failed to state a claim and failed to comply with the Federal Rules of Civil

¹ On August 27, 2021, the Court denied Plaintiff's construed motion for temporary restraining order and/or preliminary injunction for failing to comply with the procedural requirements of the Federal Rules of Civil Procedure and the Local Rules of this Court. Doc. 5.

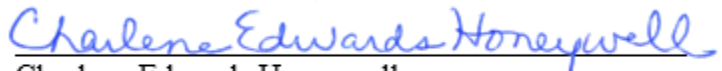
Procedure. *Id.* Having determined that Plaintiff fails to meet the threshold pleading requirements to state a claim for violation of his constitutional rights, the Magistrate Judge directed Plaintiff to file—by October 25, 2021—an amended complaint that complies with the Federal Rules of Civil Procedure and that states a cognizable claim. Additionally, the Magistrate Judge directed Plaintiff to submit an amended affidavit of indigency. The Magistrate Judge cautioned Plaintiff that failure to timely comply may result in denial of his motion to proceed *in forma pauperis* and dismissal of this action. To date, Plaintiff has not filed an amended complaint or an amended affidavit of indigency, nor has he sought an extension of time in which to do so. Accordingly, Plaintiff's Complaint is due to be dismissed. It is hereby

ORDERED:

1. This action is **DISMISSED, without prejudice.**
2. The Clerk of Court is directed to terminate all motions and deadlines and

CLOSE this case.

DONE and **ORDERED** in Tampa, Florida on October 29, 2021.


Charlene Edwards Honeywell
United States District Judge

Copies furnished to:
Mark Bradford Benson, *pro se*
Counsel of Record